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BakerHostetler LLP

Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5304

T 202.861.1500
F 202.861.1783
www.bakerlaw.com

E. Mark Braden
direct dial: 202.861.1504
mbraden@bakerlaw.com

August 22, 2008

Federal Election Commission
General Counsel Office
999 E Street, N.W.
Washington, DC 20463
Attn: Kim Collins

Re: MUR 6033

Dear Ms. Collins:

This letter and the accompanying materials are in response to the Federal Election Commission (Commission) notice that a complaint has been filed by the Ohio Democratic Party, (Party) alleging that Steve Stivers for Congress (Stivers) may have violated the Federal Election Campaign Act of 1971, as amended (Act). Enclosed with the Commission's letter was a copy of the complaint filed by the Party. This letter and accompanying materials from the Stivers Committee will demonstrate that this matter should be closed without further action by the Commission.

The Party's complaint alleged that the Ohio Bankers League (OBL) made a prohibited corporate contribution to the Stivers Committee. OBL is an incorporated trade association for Ohio financial institutions. As an incorporated trade association, it is subject to the general prohibitions of the Act on corporate contributions for federal political activities.¹ However, the Act and the Commission's regulations provide a number of ways in which incorporated trade associations may participate in federal political activities without violating the Act.

The alleged violation in the Party complaint arises from a fundraising event held for the Stivers Committee on the evening of June 3rd this year. The fundraising reception was held at the personal residence of Roger and Sherran Blair in New Albany, Ohio. Although Mrs. Blair is the former OBL chairwoman, the event was not conducted at facilities owned or controlled by OBL or any other corporate entity. The Stivers Committee paid for those expenses associated with the conduct of the reception as required by the Act. The Blairs paid for food and beverages served at the event. The invitations to this event were sent to individuals who would be members of OBL's restricted class.² This type of partisan communication, an invitation to a candidate fundraising event, could have been paid for directly by the OBL from its general

¹ 2 U.S.C. § 441b.

² 11 C.F.R. § 114.8(h) and § 114.8(i).

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treasury funds. The Commission's regulations permitting partisan communications by an incorporated trade association to its restricted class. Although under no obligation imposed by the Act to do so, the Stivers Committee reimbursed OBL for the cost of printing, inserting and mailing the invitations to OBL's restricted class members. Attached is a copy of the invoice and check number for that payment.

The Stivers fundraising event at the Blairs' home raised approximately \$15,000 for the campaign. The suggested contribution amount was \$250 per person. The Stivers Committee received no conducted contribution checks at or for this event from OBL, its employees or agents. The Stivers Committee received no earmarked third party checks from OBL employees or agents. The reply device (Democratic party complaint Exhibit 3) does state: "Please Return to: Dan Conklin,...". Mr. Conklin is an employee of OBL and the OBL's political action committee. Mr. Conklin or other OBL employees received approximately 10 or 11 checks of \$250, payable to the Stivers Committee prior to the event. None of these checks were transmitted by Mr. Conklin or other OBL employees to the Stivers Committee. At the Blair's event, OBL counsel directed the return of these checks to the individual contributors and inform them that if they wish to make contributions to the Stivers Committee, the contributions had to be given directly by them to the campaign.

Mr. Conklin did not transmit any contributions to the Stivers campaign. No conducted/earmarked contribution checks were received by the campaign from Mr. Conklin or any other agent of OBL and transmitted to the Committee. All contributions made to the Stivers Committee for this event were received directly by the agents of the campaign. For these reasons, Mr. Conklin cannot have acted as a conduit under the Commission regulations. He simply did not transmit any contributions to the Stivers Committee.

There are no other allegations in the complaint that Mr. Conklin's or any other OBL agent's activities exceeded those permitted under the Commission's regulations. Employees of OBL are permitted to be involved in partisan communications to OBL restricted class. OBL has not improperly facilitated the making of contributions to the campaign since all contributions for the Stivers Committee received by Mr. Conklin were returned to the contributors for their personal transmittal to the Stivers Committee's representatives.

For these reasons, the allegations in the Democratic party complaint are insufficient to support any analysis by which the Commission could find the Stivers Committee in violation of the Act. The Commission should promptly dismiss this MUR without further action.

Sincerely,



E. Mark Braden

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